

# United States District Court

SOUTHERN

DISTRICT OF

NEW YORK

TIMOTHY W. BRACCINI

## SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

METRO-NORTH COMMUTER RAILROAD

07 CV 2997  
JUDGE SCHEINDLIN

TO: (Name and address of defendant)

Metro-North Commuter Railroad  
347 Madison Avenue  
New York, New York 10017

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Michael H. Zhu, Esquire  
14 Wall Street, 22nd Floor  
New York, New York 10005

of counsel  
Rudolph V. DeGeorge, II, Esquire  
Barish Rosenthal  
1717 Arch Street, Suite 4020, Phila., PA 19103

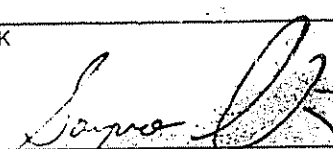
an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**J. MICHAEL McMAHON**

APR 16 2007

CLERK

DATE

(BY)  DEPUTY CLERK



AO 440 (Rev. 10/93) Summons In a Civil Action -SDNY WEB 4/99

RETURN OF SERVICE		
Service of the Summons and Complaint was made by me <sup>1</sup>	DATE	
NAME OF SERVER (PRINT)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____ _____		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: _____ _____		
<input type="checkbox"/> Returned unexecuted: _____ _____ _____		
<input type="checkbox"/> Other (specify): _____ _____ _____		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
<p style="text-align: center;">I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>Executed on _____ Date</p> </div> <div style="width: 45%;"> <p>_____ Signature of Server</p>   <p>_____ Address of Server</p> </div> </div>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.



JUDGE SCHEINDLIN

07 CV 2997

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TIMOTHY W. BRACCINI

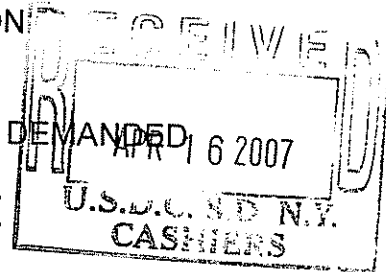
*Plaintiff*

- vs -

METRO-NORTH COMMUTER  
RAILROAD*Defendant*

CIVIL ACTION

JURY TRIAL DEMANDED

COMPLAINT

The plaintiff by and through his attorneys, MICHAEL H. ZHU, ESQ., and BARISH ♦ROSENTHAL, Plaintiff, Timothy W. Braccini claims of the defendant a sum in excess of One Hundred Thousand (\$100,000.00) Dollars in damages, plus costs and disbursements, upon a cause of action whereof the following is a statement:

1. Plaintiff, Timothy W. Braccini, is a citizen and resident of Wingdale, New York 12594.
2. Defendant, Metro-North Commuter Railroad , at all times herein mentioned, was a corporation duly organized and existing according to law, engaged and engaging in the business of owning and operating a line and systems of railroads and railroad properties as a common carrier by railroad of goods and passengers for hire in interstate commerce, and transportation in, through and between various and several states of the United States, and doing business and having an office in the City of New York, State of New York.
3. Plaintiff, at all times mentioned and for sometime prior thereto, was in the employment of the defendant as a third railman in its business of interstate commerce and transportation by railroad.
4. This action is brought under the Federal Employers' Liability Act, 45 U.S.C.A.,



§51-60.

5. On or about April 24, 2004, at defendant's North White Plains Yard, New York, plaintiff was caused to suffer personal injuries during the course and scope of his employment with defendant.

6. At the said time, defendant was guilty of the following acts of negligence and unlawful conduct which directly and proximately caused the accident and injuries in questions:

(a) failing to use ordinary care to furnish plaintiff with a reasonably safe place to work and to perform the duties of his employment by failing to provide plaintiff with the proper tools and/or equipment necessary to safely perform such duties;

(b) failing to properly maintain, inspect and repair such tools and/or equipment which plaintiff was required to use in the course and scope of his employment to ensure that same were reasonably safe to use and in good working condition;

(c) failing to provide plaintiff with proper tools and equipment to perform his job without risk of injury.

7. The injuries in question were caused solely by the negligence of defendant's servants, agents and/or employees and were in no way caused by any negligence of plaintiff.

8. As a direct and proximately result of defendant's negligence and unlawful conduct, plaintiff was caused to suffer personal injuries.



WHEREFORE, plaintiff demands judgment against the defendant in an amount in excess of One Hundred Thousand (\$100,000.00) Dollars, plus costs and disbursements incurred herein.

**MICHAEL H. ZHU, Esq.**

by:



Michael H. Zhu [MHZ7500]

Attorney for the Plaintiff

14 Wall Street Street, 22<sup>nd</sup> Floor  
New York, NY 10005  
212-227-2245  
212-227-2265(fax)

OF COUNSEL:  
BARISH ♦ ROSENTHAL

RUDOLPH V. DeGEORGE, II, ESQUIRE  
Bell Atlantic Tower  
1717 Arch Street, Suite 4020  
Philadelphia, Pennsylvania 19103  
215 923-8900  
215 351-0593- fax



### VERIFICATION

The undersigned, having read the attached pleading, verifies that the within pleading is based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. The language of the pleading is that of counsel and not of signer. Signer verifies that he has read the within pleading and that it is true and correct to the best of signer's knowledge, information and belief. To the extent that the contents of the pleading are that of counsel, verifier has relied upon counsel in taking this verification. This verification is made subject to the penalties of the Rules of Court relating to unsworn falsification to authorities.

Timothy W. Braccini

Dated: 2/7/07

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS 21 DAY OF FEB 2007  
BY TIMOTHY BRACCINI  
[Signature]  
NOTARY PUBLIC

DANIEL JOSHUA ROSENBERGER  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 01R06136010  
QUALIFIED IN WESTCHESTER COUNTY  
COMMISSION EXPIRES OCT. 31, 2009



Index No.

Year

RJI No.

Hon.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TIMOTHY W. BRACCINI,

Plaintiff,

-against-

METRO-NORTH COMMUTER RAILROAD,

Defendant.

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**VERIFIED COMPLAINT**

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MICHAEL H. ZHU, ESQ.

*Attorneys for Plaintiff Timothy W. Braccini*

*Office and Post Office Address, Telephone*

14 WALL STREET, 22<sup>ND</sup> FLOOR  
NEW YORK, N.Y. 10005  
(212) 227-2245

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To

Signature (Rule 130-1.1-a)

.....  
Print name beneath

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Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

.....  
Attorney(s) for

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Please take notice

☐ NOTICE OF ENTRY

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order  
settlement to the HON.  
of the within named court, at  
on

of which the within is a true copy will be presented for  
one of the judges

at

M

Dated,

Yours, etc.

MICHAEL H. ZHU, ESQ.

*Attorneys for plaintiff Timothy W. Braccini*

*Office and Post Office Address*

14 WALL STREET, 22<sup>ND</sup> FLOOR

NEW YORK, N.Y. 10005

To

Attorney(s) for